HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE MS JUSTICE G. ROHINI

Writ Appeal No.908 of 2007

Between:

K. Venugopal Reddy and 26 others

... Appellants

And

Smt. R.Nagamani and two others

... Respondents

Counsel for the appellants : Shri K.V.N. Reddy

::JUDGMENT::

October 31, 2007

Per G.S. Singhvi, CJ

This is an appeal for setting aside order dated 9.3.2007 passed by the learned Single Judge in WPMP No.30785 of 2006 in Writ Petition No.18424 of 2004 whereby he declined to modify interim order passed in favour of respondent No.1 – Smt. R. Nagamani.

Respondent No.1, her father and her brothers constituted an Hindu Undivided Family (HUF). The HUF owned land in Survey Nos.34 to 37, 39, 43, 44, 794 and 795 of Uppal Kalasa Village, Uppal

Mandal, Ranga Reddy District and she is having 1/7th undivided share in it. They filed declaration under Section 6 of the Urban Land (Ceiling and Regulation) Act, 1976 (for short, 'the Act'). After processing the matter, Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad determined the surplus area of respondent No.1 and issued notice under Section 10 (5) of the Act requiring her to surrender the surplus land in different survey numbers. Respondent No.1 challenged those proceedings in Writ Petition No.18424 of 2004. She also filed WPMP No.30785 of 2006 for interim relief. By an order dated 8.10.2004, the learned Single Judge stayed further proceedings.

After finalization of the surplus area case of respondent No.1, the appellants purchased land comprised in Survey No.44, which is said to have been divided into plots. They got the sale deeds registered and then filed an application sometime in November, 2006 for modification of interim order dated 8.10.2004.

The learned Single Judge declined the appellants' prayer by recording the following observations:

> "Indisputably, purchases made by the petitioners herein is during the pendency of the appeals and is not the subject matter of adjudication under Section 8 (4) of the Act, against which appeals preferred. In other words, it is subsequent to passing of orders declaring surplus land under Section 8 (4) of the Act. If the writ petitions are allowed by granting reliefs, they are entitled to the benefits under G.O.Ms.No.733, Revenue dt.31.10.1988 and there may not be excess land and the petitioners, who purchased the land, will automatically entitled to the benefits under G.O.Ms.No.733, dated 31.10.1988. In view of the same, I see no grounds to modify the interim stay granted by this court."

Shri K.V.N Reddy, learned counsel for the appellants argued that even though the transactions involving purchase of different portions of Survey No.44 by his clients may be violative of the provisions contained in the Act, they are entitled to seek regularization in terms of G.O.Ms.No.455, dated 29.07.2002 and the learned Single

Judge committed an error by declining to modify the stay granted in favour of respondent No.1.

We have considered the submission of the learned counsel, but have not felt impressed. The question whether the writ petitioner's grievance against the proceedings initiated under the Act is tenable or not will be decided at the time of final adjudication of the writ petition. If the Court allows the writ petition, the orders passed by the competent authorities under the Act may be annulled. The Court may also grant appropriate consequential relief to the writ petitioner (respondent No.1 herein). The appellants, who claim to have purchased a portion of the surplus land, cannot claim a better right than that of writ petitioner and, in our considered view, the learned Single Judge did not commit any jurisdictional mistake or patent error by refusing to exercise discretion in their favour by way of modification of the interim order.

If interim order passed in favour of respondent No.1 is vacated and the so-called possession of the land is regularized in favour of the appellants, serious complication will ensue and perhaps, the writ petition filed by respondent No.1 may be rendered infructuous. Therefore, we do not find any valid ground or justification to entertain the appellants' prayer for modification of interim order dated 8.10.2004.

In the result, the appeal is dismissed.

As a sequel to dismissal of the main appeal, WAMP No.1820 of 2007 filed by the appellants for interim relief is also dismissed.

G.S. SINGHVI, CJ

G. ROHINI, J

October 31, 2007
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